

Hon. Marsha Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

MARK HOFFMAN, on behalf of himself
and all others similarly situated,
Plaintiff,

v.

HEARING HELP EXPRESS, INC.,
TRIANGULAR MEDIA CORP.,
LEADCREATIONS.COM, LLC and
LEWIS LURIE,
Defendants.

CASE NO. 3:19-cv-05960-MJP

**DECLARATION OF JEFFREY N.
ROSENTHAL IN SUPPORT OF
DEFENDANT HEARING HELP
EXPRESS, INC.'S OPPOSITION
TO PLAINTIFF'S MOTION FOR
LEAVE TO AMEND THE
COMPLAINT**

ORAL ARGUMENT REQUESTED

I, Jeffrey N. Rosenthal, declare as follows:

1. I am an attorney at law duly licensed to practice before the Commonwealth of Pennsylvania, the State of New Jersey, and the District of Columbia and have been admitted *pro hac vice* to practice before this Court in this case. I am a partner of the law firm of Blank Rome LLP ("Blank Rome"), attorneys for Defendant Hearing Help Express, Inc. ("HHE") in the above-entitled action. I have personal knowledge of the facts set forth in this declaration, and if called upon to testify as a witness, I could and would competently testify to the following facts. I submit this declaration in support of HHE's Opposition to Plaintiff Mark Hoffman's ("Plaintiff" or "Hoffman") Motion for Leave to Amend the Complaint ("Motion"). [Dkt. No. 95].

DECLARATION OF JEFFREY N. ROSENTHAL IN
SUPPORT OF OPPOSITION TO MOTION FOR
LEAVE TO AMEND THE COMPLAINT - 1

No. 3:19-cv-05960-MJP

113461.00602/124193693v.2

VAN KAMPEN & CROWE PLLC
1001 Fourth Avenue, Suite 4050
Seattle, Washington 98154-1000
(206) 386-7353

2. Discovery in this case began soon after Plaintiff filed his original Complaint in October of 2019. Plaintiff first served written discovery against HHE in January of 2020. HHE served written discovery responses, supplemental discovery responses, and over 19,000 pages of documents. The parties engaged in a lengthy meet and confer process that resulted in HHE producing these supplemental responses. Moreover, Plaintiff recently served a second set of documents requests to HHE, to which HHE has responded and produced additional documents.

3. Discovery continued with HHE serving written discovery on Plaintiff in July of 2020 and several depositions taking place. On July 30, 2020, Plaintiff took the Rule 30(b)(6) corporate deposition of HHE, in which two individuals were provided to testify—Mr. James Houlihan and Mr. Richard Calligan. I defended these depositions. Attached hereto as **Exhibit 1** are true and correct copies of excerpts from Mr. Houlihan’s deposition that were not included in Plaintiff’s Motion.

4. Plaintiff also deposed three former HHE employees on August 26, 2020 (Mr. Marc Marion), August 28, 2020 (Ms. Sophie Cormier), and September 23, 2020 (Mr. Justin Moser), respectively. I defended all these depositions. Attached hereto as **Exhibit 2** are true and correct copies of excerpts from Ms. Cormier’s deposition.

5. HHE then noticed Plaintiff’s deposition for November 4, 2020, and I took the deposition of Plaintiff that day. Attached hereto as **Exhibit 3** are true and correct copies of excerpts from Plaintiff’s deposition.

6. Plaintiff’s counsel has also deposed Defendant Lewis Lurie, which took place on November 19, 2020. I attended Mr. Lurie’s deposition.

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DECLARATION OF JEFFREY N. ROSENTHAL IN
SUPPORT OF OPPOSITION TO MOTION FOR
LEAVE TO AMEND THE COMPLAINT - 2

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: Jeffrey N. Rosenthal
Jeffrey N. Rosenthal

CERTIFICATE OF SERVICE

I, Nicole Metral, hereby certify that on December 14th, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Signed at Los Angeles, California this 14th day of December 2020.

/s/ Nicole Metral
Nicole Metral

DECLARATION OF JEFFREY N. ROSENTHAL IN
SUPPORT OF OPPOSITION TO MOTION FOR
LEAVE TO AMEND THE COMPLAINT - 4
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